

HOUSE BILL 480

E2

2lr1650
CF SB 496

By: **Delegates Braveboy, Jameson, Alston, Barnes, Carter, Frush, Gaines, Holmes, Howard, Pena–Melnyk, Proctor, Ross, V. Turner, Valderrama, Valentino–Smith, Vallario, Vaughn, and Walker**

Introduced and read first time: February 2, 2012

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Unexecuted Warrant, Summons, or Other Criminal**
3 **Process – Invalidation and Destruction**

4 FOR the purpose of authorizing a law enforcement agency to make a certain request to
5 a certain State’s Attorney to have a certain unexecuted warrant, summons, or
6 other criminal process invalidated and destroyed under certain circumstances;
7 ~~requiring~~ authorizing the State’s Attorney to petition a certain administrative
8 judge for the invalidation and destruction of a certain unexecuted warrant,
9 summons, or other criminal process; authorizing the State’s Attorney to argue
10 against the invalidation and destruction of a certain unexecuted warrant,
11 summons, or other criminal process under certain circumstances; providing for
12 the manner in which a court may order the invalidation and destruction of a
13 certain unexecuted warrant, summons, or other criminal process; prohibiting an
14 arrest from being made under the authority of a certain warrant or other
15 criminal process; authorizing the State’s Attorney to enter a nolle prosequi or
16 place a certain case on the stet docket at a certain time; providing for the
17 application of this Act; and generally relating to the invalidation and
18 destruction of unexecuted warrants, summons, or other criminal processes.

19 BY adding to
20 Article – Criminal Procedure
21 Section 4–109
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2008 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Procedure

4–109.

(A) A LAW ENFORCEMENT AGENCY MAY MAKE A WRITTEN REQUEST FOR THE STATE’S ATTORNEY WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY TO PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT TO HAVE ~~AN UNEXECUTED A WARRANT FOR A MISDEMEANOR OFFENSE~~, SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE THAT HAS REMAINED UNEXECUTED FOR AT LEAST 10 YEARS IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES.

(B) ON RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE STATE’S ATTORNEY ~~SHALL~~ MAY PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS.

(C) THE STATE’S ATTORNEY MAY ARGUE AGAINST THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS DUE TO A JUSTIFIABLE CONTINUING ACTIVE INVESTIGATION OF THE CASE.

(D) UNLESS PRESERVATION IS DETERMINED BY THE COURT TO BE JUSTIFIABLE, THE COURT SHALL ORDER THE INVALIDATION AND DESTRUCTION OF ~~AN THE UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE~~, SUMMONS, OR OTHER CRIMINAL PROCESS IN ACCORDANCE WITH § 1–605 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(E) AN ARREST MAY NOT BE MADE UNDER THE AUTHORITY OF A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS THAT HAS BEEN ORDERED INVALIDATED AND DESTROYED.

(F) THE STATE’S ATTORNEY MAY ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE STET DOCKET AT THE TIME OF THE COURT ORDER UNDER THIS SECTION.

1 (G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

2 (1) PREVENT THE REISSUANCE OF A WARRANT, SUMMONS, OR
3 OTHER CRIMINAL PROCESS;

4 (2) AFFECT THE TIME WITHIN WHICH A PROSECUTION FOR A
5 MISDEMEANOR MAY BE COMMENCED; ~~OR~~

6 (3) NULLIFY OR REMOVE A FAILURE TO APPEAR DESIGNATION
7 THAT HAS BEEN PLACED ON AN INDIVIDUAL'S DRIVING RECORD BY THE MOTOR
8 VEHICLE ADMINISTRATION; OR

9 ~~(3)~~ (4) AFFECT ANY PENDING CRIMINAL CHARGE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.